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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,531	12/02/2004	Roger S. Levy	P70292US0	6996

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EXAMINER

TRUONG, THANH K

ART UNIT

PAPER NUMBER

3721

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/516,531	Applicant(s) LEVY, ROGER S.	
	Examiner Thanh K. Truong	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 12, 2006 has been entered.
2. Applicant's cancellation of claim 2 is acknowledged.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 9 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerard Joulin (1,568,220).

Gerard Joulin discloses (figures 1-5) an apparatus comprising: a machine for continuous packing in a modified atmosphere of food products and a conveyor (12) for continuous sequential feeding of food products to the machine, wherein means, at the entrance of the machine, submit the product fed by the conveyor to vacuum before it is packed in modified atmosphere in the machine (page 2, lines 17-22; lines 50-56; lines 89-93; lines 102-109 and page 3, lines 4-10), the means comprise at least a bell connected to

means (13) for the suction of air from inside the bell, the bell being supported by movement means for its synchronous movement along the transport section of the conveyor near the entrance of the machine to enclose in the section one of the food products under the bell and submit the one of the food products to the vacuum.

It is construed that the section under the means (13) is read as the "bell" that cover the food products, and it is further construed that the food products under the "bell" is not yet being packed in modified atmosphere.

5. Claims 1 and 3-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawaguchi et al. (4,640,081).

Regarding claims 1, 9 and 17, Kawaguchi et al. discloses an apparatus comprising: a machine for continuous packing in a modified atmosphere of food products and a conveyor (2, 8) for continuous sequential feeding of food products to the machine, wherein means, at the entrance of the machine, submit the product fed by the conveyor to vacuum before it is packed in modified atmosphere in the machine.

It is construed that the food product that surrounded by article (3b) is read as the food product not yet being packed in modified atmosphere, because the article (3b) is not completely sealed at this point (see figure 5).

Kawaguchi et al. further discloses: bell (15) wherein the bell is supported by movement means (M2 – the carousel in figure 6) for synchronous movement along a transport section of a conveyor to enclose a product under the bell and submit the product to vacuum means.

Regarding claims 3 and 10, the carousel transporting the bell (15) along a closed section that comprises the transport section of the conveyor and means (14, 33, 36) of controlled lowering of the bell onto the conveyor (Fig. 9).

Regarding claims 4 and 11, the controlled lowering means comprise a support (33) of the bell that can be vertically lowered against the action of the elastic means (23, 27) keeping the bell in a raised position and actuator means (30a, 34, 36, 40) positioned along the transport section to push the bell towards the conveyor against the action of the elastic means (Fig. 9).

Regarding claims 5 and 12, the actuator means comprise a lowering cam yoke (36) of the support bell (Fig. 9).

Regarding claims 6 and 13, a plurality of bell to act simultaneously on several products moved sequentially along the transport section (Fig. 6).

Regarding claims 7 and 14, the suction (46) and input means are supported by the carousel to be moved together with the bell.

Regarding claim 8, the continuous packing machine in modified atmosphere is the type comprising a roll of plastic film (R) and means that unroll conform into a tube and weld the film to create packs sequentially around products fed to it (Figs. 1 & 2).

Regarding claim 15, the suction and input means comprise a pump (not shown – column 7, lines 24-25) for each bell.

Regarding claim 16, the counter-bells (13) connected to means for suction of air from inside them and which are mobile, to be positioned in front of the bells and in contact with the other face of the transport surface of the conveyor, in the sense that vacuum is created that balances the action of vacuum of the bells on the conveyor (Fig. 9).

Response to Arguments

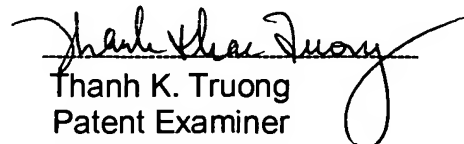
6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Thanh K. Truong
Patent Examiner
January 4, 2007.